



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,137	12/16/2005	Gregor John McLennan Anderson	PB60389D USW	6287
23347	7590	03/16/2010		
GLAXOSMITHKLINE CORPORATE INTELLECTUAL PROPERTY, MAI B482 FIVE MOORE DR., PO BOX 13398 RESEARCH TRIANGLE PARK, NC 27709-3398			EXAMINER COLLINS, MICHAEL	
			ART UNIT 3651	PAPER NUMBER
			NOTIFICATION DATE 03/16/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USCIPRTP@GSK.COM
LAURA.M.MCCULLEN@GSK.COM
ELAINE.X.MARTENS@GSK.COM

Office Action Summary	Application No. 10/561,137	Applicant(s) ANDERSON ET AL.	
	Examiner MICHAEL K. COLLINS	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 15-29 is/are rejected.
- 7) ☒ Claim(s) 7-14 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see **REMARKS** page 7 lines 1-4, filed 12/11/2009, with respect to the rejection(s) of claim(s) 1-4 and 7-30 under §102(b) or, in the alternative under §103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Gayle (USP 3,687,336).

Drawings

2. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3651

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 15-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Gayle (USP 3,687,336).

Regarding claim 1, Gayle discloses a hand-held dispenser for dispensing a multiplicity of unit products having:

- a first dispenser part (26), comprising a storage area for storing the unit products,
- a second dispenser part (12,13,19), comprising a dispensing module (29) mounted on the storage area,
- an outlet opening (45) through which the unit products are dispensable from the dispenser,
- a dispensing mechanism (13) actuable to dispense the unit products through the outlet opening (114), and
- a timing mechanism (39,40) adapted in use to time the period since last dispensing of a unit product (see column 5 lines 40-60).

Regarding claim 2, Gayle discloses the dispenser of claim 1 in which the timing mechanism (39,40) is adapted in use to indicate the time since last dispensing (see Figure 1).

Regarding claim 3, Gayle discloses the dispenser of claim 1 having a display (39) forming part of the timing mechanism on which, in use, the time since last dispensing is graphically indicated thereon.

Art Unit: 3651

Regarding claim 15, Gayle discloses the dispenser of claim 1 having the unit products (28).

Regarding claim 16, Gayle discloses the dispenser of claim 15 wherein the unit products are pharmaceutical products (28).

Regarding claim 17, Gayle discloses the dispenser of claim 16 wherein the pharmaceutical products are oral dosage forms (28).

Regarding claim 18, Gayle discloses the dispenser of claim 15 wherein the unit products are pills (28).

Regarding claim 19, Gayle discloses the dispenser of claim 1 in which the dispensing mechanism is adapted to dispense a predetermined number of unit products (28) per actuation.

Regarding claim 20, Gayle discloses the dispenser of claim 19 wherein the predetermined number is one (28).

Regarding claim 21, Gayle discloses the dispenser of claim 1 wherein the timing mechanism (39,40) and outlet opening (45) are provided in the second dispenser part (12,13) attached to the first dispenser part (26).

Regarding claim 22, Gayle discloses the dispenser of claim 21 wherein the dispensing mechanism (13) is provided in the second dispenser part (12,13).

Regarding claim 23, Gayle discloses the dispenser of claim 21 wherein the first and second dispenser parts are releasably attached (see column 3 lines 15-17).

Regarding claim 24, Gayle discloses the dispenser of claim 21 wherein the first dispenser part has an access opening (26,30) through which the unit products are

Art Unit: 3651

transferable from the storage area (26) into the second dispenser part (45) and the dispenser has a closure (15) which is selectively connectable with the first and second dispenser parts to respectively close the access opening and the outlet opening.

Regarding claim 25, Gayle discloses the dispenser of claim 24 wherein the closure is a cap (15).

Regarding claim 26, Gayle discloses the dispenser of claim 24 wherein the closure, on the one hand, and the first and second dispenser parts, on the other hand, have co-operable connecting structures (17) for selectively connecting the closure to the first and second dispenser parts.

Regarding claim 27, Gayle discloses the dispenser of claim 26 wherein the connecting structures (17) on the first and second dispenser parts are the same.

Regarding claim 28, Gayle discloses the dispenser of claim 26 wherein the second dispenser part has a further connecting structure which is co-operable with the connecting structure of the first dispenser part which co-operates with the connecting structure of the closure to enable connection of the first and second dispenser parts (see column 2 lines 53-56).

Regarding claim 29, Gayle discloses the dispenser of claim 1 claims in which the timing mechanism is operatively coupled to the dispensing mechanism so as to be actuated in response to actuation of the dispensing mechanism (see column 3 lines 20-28).

5. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Marlar (USP 5,323,929).

Art Unit: 3651

Regarding claim 1, Marlar discloses a hand-held dispenser for dispensing a multiplicity of unit products having:

- a first dispenser part (40), comprising a storage area for storing the unit products,
- a second dispenser part (12), comprising a dispensing module (36) mounted on the storage area,
- an outlet opening (34) through which the unit products are dispensable from the dispenser,
- a dispensing mechanism (56) actuable to dispense the unit products through the outlet opening (34), and
- a timing mechanism (18) adapted in use to time the period since last dispensing of a unit product.

Regarding claim 4, Marlar discloses the dispenser of claim 1 wherein the timing mechanism has a controller programmed with a predetermined dispensing regime for dispensing of the unit products and the controller controls the timing mechanism so that it provides an alert when dispensing of the unit products is required in accordance with the dispensing regime (see column 4 lines 53-58).

Allowable Subject Matter

6. Claims 7-14 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL K. COLLINS whose telephone number is (571)272-8970. The examiner can normally be reached on 8:30 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.K.C.
3/08/2010

/Michael K Collins/
Examiner, Art Unit 3651

Application/Control Number: 10/561,137
Art Unit: 3651

Page 8